

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

UNITED STATES OF AMERICA : DOCKET NO. 6:06-cr-60017

VS. : JUDGE DOHERTY

BRIAN J. HAMILTON : MAGISTRATE JUDGE HILL

REPORT AND RECOMMENDATION

On November 7, 2008, Brian James Hamilton filed a “Writ of Habeas Corpus” which the court presumes has been filed pursuant to 28 U.S.C. § 2241. [rec. doc. 33]. In his petition, Hamilton asserts that he had been serving concurrent state and federal sentences in a Louisiana state facility. On August 27, 2008, petitioner was released from the custody of the Louisiana Department of Public Safety and Corrections and transferred to the custody of the United States Marshal. However, he complains that he has yet to be transferred to a federal facility to serve the remainder of his federal sentence. Accordingly, petitioner requests that he be transferred to a federal facility or released from the custody of the United States Marshal.

On December 4, 2008, this court issued an Order requiring a response by the government. However, Hamilton did not receive a copy of this court’s Order as the as the envelope containing the Order was returned unopened by the United States Postal Service December 12, 2008 and marked, “Returned to Sender” because Hamilton was “released 12-5-08 U.S. Marshal”. [rec. doc. 36]. The court has verified that Hamilton has been

transferred to a federal facility utilizing the Federal Bureau of Prisons inmate locator (www.bop.gov), which reveals that petitioner is currently housed at the FTC in Oklahoma City, Oklahoma. Thus, Hamilton is no longer in state custody; he has been transferred to a federal facility. Petitioner has received the relief which he requested. Accordingly, the instant petition is now moot and should be dismissed. For this reason,

IT IS RECOMMENDED that the instant “Writ of Habeas Corpus” [doc. 33] be DENIED AND DISMISSED WITH PREJUDICE as moot.

Under the provisions of 28 U.S.C. § 636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.

THUS DONE AND SIGNED in Chambers at Lafayette, Louisiana, December 18, 2008.


C. MICHAEL HILL
UNITED STATES MAGISTRATE JUDGE